



4. This Court has jurisdiction over this action under the provisions of the Federal Declaratory Judgments Act, 28 U.S.C. §§ 2201 and 2202; under the laws of the United States relating to trademarks and unfair competition, specifically 15 U.S.C. § 1121 and 28 U.S.C. §§ 1338(a) and (b); under 28 U.S.C. § 1331; and has supplemental jurisdiction under 28 U.S.C. § 1367(a).








5. The State is the owner of the premises of THE ALAMO in downtown San Antonio. As the owner, the State also owns the image of THE ALAMO and the right to commercialize that image to whatever extent the State, as owner, decides to do so. Such commercialization includes the right to use or license the use of the image on product labels.

6. The image of THE ALAMO is famous, and it has been famous for over 100 years. Consumers all over Texas, and beyond, recognize the image as that of THE ALAMO.


7. The State uses THE ALAMO and the image of THE ALAMO as trademarks (“THE ALAMO Marks”) on many diverse products sold at its gift shop on the premises of THE ALAMO and through its online store, and has acquired valuable common law rights in such trademarks.

8. The State has acted to protect THE ALAMO Marks through federal registration. Such registrations, and pending applications, include the following:

Mark	Serial No. File Date	Reg. No. Reg. Date	Goods/Services
FRIENDS OF THE ALAMO	77/516,605 07/08/2008	3,778,851 04/20/2010	36 - Charitable fund raising services, namely, raising funds for the restoration repair and operation of The Alamo in San Antonio Texas
THE ALAMO	85/092,869 07/26/2010	4,223,932 10/16/2012	35 - Retail gift shop services; on-line retail gift shop services; vending in the field of souvenirs 41 - Museum services, namely, exhibiting to the public a historic site; guided tours of a historical site; gardens for public admission; movie theater for historical movies
THE ALAMO	77/847,556 10/13/2009	4,081,655 01/10/2012	41 - Museum services, namely, exhibiting to the public a historical site
THE ALAMO	86/259,245 04/22/2014	4,641,260 11/18/2014	32 - Bottled water.
THE ALAMO	85/854,765	4,406,990	08 - Knives; nut crackers.

Mark	Serial No. File Date	Reg. No. Reg. Date	Goods/Services
THE ALAMO	85/854,770 02/20/2013	4,524,395 05/06/2014	09 - Digital media, namely, pre-recorded DVDs and CDs featuring historical documentaries and information about a historical site; mouse pads; decorative magnets.
THE ALAMO	85/854,782 02/20/2013	4,410,665 10/01/2013	14 - Jewelry, tie tacks, ornamental pins, commemorative coins.
THE ALAMO	85/854,790 02/20/2013	4,410,666 10/01/2013	18 - Leather and imitation leather luggage, tote bags, backpacks, wallets, coin purses.
THE ALAMO	85/854,796 02/20/2013	4,410,668 10/01/2013	24 - Kitchen towels; blanket throws.
THE ALAMO	85/854,809 02/20/2013	4,623,223 10/21/2014	25 - Clothing, namely, shirts, sweaters, footwear, hats, caps, aprons, socks, ties, bandanas, scarves, children's and infants' cloth bibs.
THE ALAMO	86/255,330 04/17/2014	4,652,168 12/09/2014	29 - Jalapeño Peppers, Pickled Okra, Spirited Peaches, Apricot Butter, Sweet Potato Butter, fruit preserves, soup mix. 30 - Barbecue sauce, chocolate, chocolate bars, coffee, cookies, hot sauce, lollipops, candy mints, mustard, pretzels, salsa, crystal sugar pieces, namely, compressed sugar; dextrose and compressed dextrose for purposes of nourishment; refreshment pastilles and candy; confectionery, namely, pastilles and sugar-free pastilles, licorice, not for medical purposes; pretzels; mustard; tea leaves; tea mix; cornbread mix; vanilla extract; chili oil; pancake syrup, topping syrup, syrup for beverages; chow chow; relish.
 The ALAMO	85/854,879 02/20/2013	4,524,396 05/06/2014	09 - Digital media, namely, pre-recorded DVDs and CDs featuring historical documentaries and information about a historical site; mouse pads; decorative magnets.
 The ALAMO	85/854,888 02/20/2013	4,410,670 10/01/2013	14 - Jewelry, tie tacks, ornamental pins, commemorative coins.
 The ALAMO	85/854,905 02/20/2013	4,410,673 10/01/2013	18 - Leather and imitation leather luggage, tote bags, backpacks, wallets, coin purses.
 The ALAMO	85/854,911 02/20/2013	4,406,997 09/24/2013	24 - Kitchen towels; blanket throws.
 The ALAMO	85/854,919 02/20/2013	4,623,224 10/21/2014	25 - Clothing, namely, shirts, sweaters, footwear, hats, caps, aprons, socks, ties, bandanas, scarves, children's and infants' cloth bibs.
 The ALAMO	85/854,930 02/20/2013	4,513,472 04/15/2014	41 - Museum services, namely, exhibiting to the public a historical site; guided tours of a historical site; gardens for public admission; movie theater for historical movies; educational services, namely, presenting talks featuring information about a historical site.
 The ALAMO	86/259,263 04/22/2014	4,641,261 11/18/2014	32 - Bottled water.



Mark	Serial No. File Date	Reg. No. Reg. Date	Goods/Services
	86/255,340 04/17/2014	4,652,169 12/09/2014	29 - Jalapeño Peppers, Pickled Okra, Spirited Peaches, Apricot Butter, Sweet Potato Butter, fruit preserves, soup mix. 30 - Barbecue sauce, chocolate, chocolate bars, coffee, cookies, hot sauce, lollipops, candy mints, mustard, pretzels, salsa, crystal sugar pieces, namely, compressed sugar; dextrose and compressed dextrose for purposes of nourishment; refreshment pastilles and candy; confectionery, namely, pastilles and sugar-free pastilles, licorice, not for medical purposes; pretzels; mustard; tea leaves; tea mix; cornbread mix; vanilla extract; chili oil; pancake syrup, topping syrup, syrup for beverages; chow chow; relish.

9. THE ALAMO Marks have achieved great goodwill and are widely recognized.

10. Consumers anticipate that products bearing THE ALAMO Marks are used by or with permission of the State. Thus, use of marks bearing the image of THE ALAMO on product labels is likely to cause confusion, mistake, or deception of consumers in violation of federal law, 15 U.S.C. §§ 1114(l) and 1125(a), and the common law of the State of Texas.

11. THE ALAMO Marks are famous and have been famous since long before 1994. As such, those marks are entitled to protection from dilution under both federal and state law. Use of the marks bearing the image of THE ALAMO on product labels is likely to cause dilution by blurring and/or dilution by tarnishment of THE ALAMO Marks in violation of federal and state law. 15 U.S.C. § 1125(c); Texas Bus. & Comm. Code §16.103.

12. Use by ABC and Texian of their respective marks shown in Attachments A and B hereto is likely to cause confusion with the THE ALAMO Marks and dilution of such marks, and is unlawful under 15 U.S.C. §§ 1114(1), 1125(a), 1125(c), Texas Business and Commerce Code, § 16.103, and Texas common law.

**Based on the above findings, the Court GRANTS the following relief:**

(a) ABC and Texian are each, together with their officers, agents, servants, employees, attorneys, and all persons in active concert or participation with them, or any of them, permanently enjoined and restrained on and after **April 30, 2015**, from using the marks shown in Attachments A and B hereto, or any other mark or name confusingly similar to THE ALAMO Marks.

(b) Texian is ORDERED to cancel, no later than **April 30, 2015**, its United States trademark registration No. 4,469,758, by filing a surrender of registration for cancellation with the United States Patent and Trademark Office; in lieu of such surrender for cancellation, Texian may apply by no later than **April 30, 2015**, to amend the registration by removing the roofline design from the mark shown in the registration. If Texian is unsuccessful in having the registration amended, it shall cancel the registration within six months after final action denying the amendment.

(c) Each party shall pay its own costs and attorney fees.

(d) Any and all other relief requested by all parties is hereby DENIED, motions pending, if any, are also DENIED, and this case is now CLOSED.

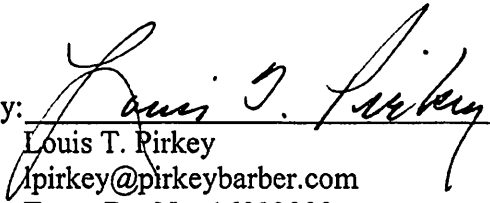
It is so ORDERED.

SIGNED this 30th day of April, 2015.

  
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FRED BIERY  
CHIEF UNITED STATES DISTRICT JUDGE

Approved:

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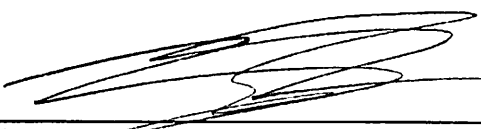
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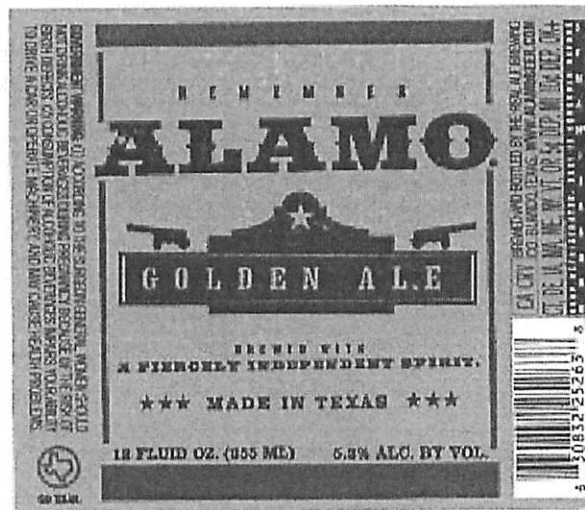
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Attachment A



Attachment B

